

were that the Custodian determined after investigation that five hundred and fifteen thousand five hundred and seventy-five dollars were owing to the German Government, that he demanded and received them under the Act, paid them to the Treasurer, and holds them in a special trust; that he afterwards collected and paid over to the Treasurer five million dollars in a special trust as from an unknown enemy, but later determined that two million two hundred thousand dollars of the latter sum were held when he received them for the Imperial German Government, and directed the Treasurer to transfer that amount to a special account to the credit of the Imperial German Government, and that this was done. It was pressed at great length that the Custodian had no authority to determine the fact, especially after the money had been transferred to the Treasurer. But it is immaterial whether he had that authority or not. He had authority to answer in his own case, and the admission of the two defendants under oath is evidence against them in other cases as it would be conclusive against them in the one where it was filed, in the absence of any evidence to the contrary. *Pope v. Allis*, 115 U. S. 363. No evidence to the contrary was given in any of the cases nor was any reason shown to doubt the fact.

*Decrees affirmed.*

MR. JUSTICE STONE took no part in this case.

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### EX PARTE GRUBER.

No. —. Original. Motion for leave to file petition for mandamus, November 23, 1925.—Decided December 14, 1925.

The provision of the Constitution granting this Court original jurisdiction "in all cases affecting Ambassadors, other public Ministers and Consuls" refers to diplomatic and consular representatives accredited to the United States by foreign powers, and not to those representing this country abroad.

Leave to file denied.

APPLICATION for leave to file a petition and for a rule directing the consul general of the United States at Montreal to show cause why a writ of mandamus should not issue against him.

*Mr. Marcus Gruber, pro se.*

MR. JUSTICE SUTHERLAND delivered the opinion of the Court.

This is an application for leave to file a petition and for a rule directing Albert Halstead, Consul General of the United States at Montreal, Canada, to show cause why a writ of mandamus should not issue commanding him to visa the passport or the certificate of origin and identity presented to him by one Rosa Porter, a citizen of Russia, who recently arrived in Montreal from Russia and from whom petitioner, a relative, desires a visit in the United States of several months' duration. We do not review the averments of the petition, since, other questions aside, it is clear that this court is without original jurisdiction.

Article III, § 2, cl. 2, of the Constitution provides that this court shall have original jurisdiction "in all cases affecting Ambassadors, other public Ministers and Consuls." Manifestly, this refers to diplomatic and consular representatives accredited to the United States by foreign powers, not to those representing this country abroad. *Milward v. McSaul*, 17 Fed. Cas. 425, 426, No. 9624. The provision, no doubt, was inserted in view of the important and sometimes delicate nature of our relations and intercourse with foreign governments. It is a privilege, not of the official, but of the sovereign or government which he represents, accorded from high considerations of public policy, considerations which plainly do not apply to the United States in its own territory. See generally *Davis v.*

Counsel for Parties.

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*Packard*, 7 Pet. 276, 284; *Marshall v. Critico*, 9 East 447; *Valarino v. Thompson*, 7 N. Y. 576, 578; *The Federalist*, No. 80, Ford's Ed., pp. 531, 532-533, 537.

*The application is denied for want of original jurisdiction.*

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UNITED STATES *v.* NEW YORK & CUBA MAIL  
STEAMSHIP COMPANY.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE  
SECOND CIRCUIT.

No. 65. Argued October 20, 1925.—Decided December 14, 1925.

1. The Act of December 26, 1920, providing, *inter alia*, that "alien seamen" found on arrival in ports of the United States to be afflicted with any of the diseases mentioned in § 35 of the Immigration Act of 1917, shall be placed in a hospital designated by an immigration official, and treated, and that all expenses connected therewith shall be borne by the owner or master of the vessel, applies to seamen who are aliens in personal citizenship, without regard to whether the nationality of the vessel be foreign or domestic. P. 310.
  2. As applied to American vessels this provision is not repugnant to the due process clause of the Fifth Amendment, and is within the power of Congress over the exclusion of aliens. P. 313.
- 297 Fed. 159, reversed; Dist. Ct. affirmed.

CERTIORARI to a judgment of the Circuit Court of Appeals which reversed a judgment of the District Court recovered by the United States from the Steamship Company, representing the hospital expenses incurred in curing a diseased seaman.

*Assistant Attorney General Letts*, with whom *Solicitor General Beck* and *Mr. J. Frank Staley*, Special Assistant to the Attorney General, were on the brief, for the United States.